Court No.2

In the High Court of Uttaranchal at Nainital.

Appeal From Order No. 112 of 2002.

(1)Smt. Parwati Devi W/o late Shri Prem Lal,
(2)Ganesh Prasad S/o of late Shri Prem Lal,
(3)Dinesh Prasad D/o late Shri Prem Lal,
(4)Km. Bhagirathi D/o late Shri Prem Lal,
(5)Chandra Mani S/o late Shri Suresha Nand,
(6)Smt. Chandra Devi W/o Shri Chandra Mani,
All residents of Village-Kaithogi, Patti-and Tehsil-Dunda, District-Uttarkashi.

……Claimant/Appellants

Versus

(1)The New India Assurance Company Ltd.,
Rishikesh, District-Dehradun,
(2)Khem Singh S/o Sri Gobar Singh
R/o Village-Sunar Gaon, Patti-Jawa,
Tehsil-Tehri, District-Tehri Garhwal.
---------Owner of the Vehicle.

……. Opp.party/Respondents.

Sri N.S.Negi, learned counsel for the claimants/appellants,
Sri T.A.Khan, learned counsel for the respondent No.1.

…….

Dated: 20th Aug.,2004.

Hon'ble P.C.Verma,J.
Hon'ble B.S.Verma,J.

This appeal has been preferred by the claimants /appellants under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the amount of compensation against the judgment and order dated 16.3.2002 made by District Judge/Motor Accident Claims Tribunal, Uttarkashi (*hereinafter referred to as the Tribunal*) in Motor Accident Claim Case No. 31 of 1999.

Brief facts giving rise to this appeal are that on 21.03.1999 the deceased Prem Lal boarded on Bus No. DEG 5818 at the place Dharasu Barethi to go his service. This bus was going from Uttarkashi to Rishikesh. When it reached near Sawali Village at Tehri-Chamba Motor Road, due to rash and negligent driving of its driver the bus met with an accident and fell into ditch. In this accident Prem Lal died on the spot. The deceased was employed on the post of Mechanic in M.J.J.V. Company at Himanchal Pradesh and was driving monthly salary of Rs. 6000/-. The deceased was aged about 25 years at the time of accident. The claimants, who are the dependents of deceased, had filed the claim petition for compensation of Rs. 20,79,000/- on account of death of deceased.

The opposite parties contested the claim petition before the Tribunal. The Insurance Company admitted the accident. It was stated that the offending bus was being driven cautiously by its driver but due to sudden mechanical defect, the accident was occurred. The learned Tribunal, on the pleadings of the parties, framed the necessary issues and after recording evidence of the parties decided the same in favour of the claimants. The claim petition was decreed for Rs. 5,44,000/- alongwith interest at the rate of 9% per annum from the date of claim petition till the date of payment against opposite party No.2-New India Assurance Company.

The claimants/appellants pressed the appeal only on the ground that the amount of compensation awarded is not just and proper. We have gone through the impugned judgment and find that the learned Tribunal after scrutinising the evidence led by the claimants /petitioners held that the deceased was aged about 25

years at the time of accident. The learned Tribunal has rightly applied the multiplier of '**17**' in this case as per second Schedule appended to Section 163-A of the Motor Vehicles Act, 1988. We do not find force in the contention of the learned counsel for the appellants that the multiplier applied in this case is incorrect. We also find that there is no illegality or infirmity in the impugned order. The learned Tribunal has rightly calculated the amount of compensation on the basis of income and dependency of the deceased.

Therefore, the appeal has no force and is hereby dismissed. The impugned order dated 16.03.2002 is affirmed. No order as to costs.

(B.S. Verma,J.) **(P.C. Verma,J.)**

P.Singh